

REMARKS

Claims 1, 2, 3, 10, 11, and 12 are amended. Claims 1-20 remain in the Application. Reconsideration of the pending claims is respectfully requested in view of the above amendment and the following remarks.

I. Claims Objections

Claim 1 is objected to because of informalities. The Examiner points to the limitation of “the electrical device for analyzing the bio-signal” in line 6 and “the electrical device” in line 7 as lacking antecedent basis. Applicant submits that the preamble of Claim 1 recites “an apparatus for controlling an electrical device using a bio-signal” (emphasis added), which provides the antecedent basis for the objected terms. Accordingly, reconsideration and withdrawal of the objection are respectfully requested.

II. Claims Rejected Under 35 U.S.C. § 102

Claims 1-2, 5-7, 10-11, and 14-18 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,474,082 issued to Junker (“Junker”). Applicant respectfully traverses the rejection.

To anticipate a claim, the Examiner must show that a single reference teaches each of the elements of that claim. Among other elements, amended Claim 1 recites a bio-signal detection means “for detecting the bio-signals generated when the user shuts his/her mouth and when the user moves his/her head left and right, wherein a different command of the user is generated based on a number of times the user’s mouth is shut within an interval of time.” Applicant submits that Junker at least does not teach these elements.

Junker discloses measuring the electromyographic biopotentials (EMG) at the forehead of a user to control a device. The measured EMG is a summation of biopotentials from a number of muscle groups, such as the eye, frontalis, neck, jaw, etc (col. 3, lines 42-43). However, Junker does not teach, as recognized by the Examiner, that the user may shut his mouth twice to turn on/off the device and shut his mouth once to select a command item (Office Action at page 10, in the rejection of Claim 3). Thus, for at least the same reasons, Junker does not teach “a different

command of the user is generated based on a number of times the user's mouth is shut within an interval of time" as recited in amended Claim 1.

In the rejection of Claim 3, the Examiner cites U.S. Patent No. 5,774,591 issued to Black ("Black") for disclosing controlling the switch of a device by opening the mouth (col. 27, lines 51-52). However, opening the mouth is different from the "number of times the mouth is shut within an interval of time." None of the cited references detects the number of times the user's mouth moves within an interval of time. Both references at most disclose activating a command upon detecting a movement without counting the number of times the movement is detected. Accordingly, reconsideration and withdrawal of the rejection of Claim 1 are requested.

Analogous discussion applies to amended independent Claims 2, 10, and 11. Claims 5-7 and 14-18 depend from Claims 2 and 11 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to Claims 1, 2, 10 and 11, the cited references do not teach or suggest these claims. Accordingly, reconsideration and withdrawal of the rejection of Claims 1-2, 5-7, 10-11, and 14-18 are respectfully requested.

III. Claims Rejected Under 35 U.S.C. § 103(a)

A. Claims 8, 9, 19, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Junker. Applicant respectfully traverses the rejection.

To establish a *prima facie* case of obviousness, the relied upon references must teach or suggest every limitation of the claim such that the invention as a whole would have been obvious at the time the invention was made to one skilled in the art.

Claims 8, 9, 19, and 20 depend from Claims 2 and 11 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to Claims 1, 2, 10 and 11, the cited references do not teach or suggest these claims. Accordingly, reconsideration and withdrawal of the obviousness rejection of Claims 8, 9, 19, and 20 are requested.

B. Claims 3, 4, 12, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Junker in view of Black.

Claims 3, 4, 12, and 13 depend from Claims 2 and 11 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to Claims 1, 2, 10 and 11, the cited references do not teach or suggest these claims.

Moreover, in regard to Claims 3 and 12, Black does not cure the deficiency of Junker for failing to disclose “if the user shuts his/her mouth twice, a control mode of the electrical device is switched ..., and if the user shuts his/her mouth once, a predetermined command item is selected.” As mentioned above in regard to Claim 1, Black at most discloses opening the mouth to turn on/off a device (col. 27, lines 51-52). There is nothing in Black that mentions or suggests detecting the mouth is shut once or twice. Thus, at least for this additional reason, Junker in view of Black does not teach or suggest these dependent claims.

Further, in regards to Claims 4 and 13, Black at most discloses turning the head left/right to control the direction of a wheelchair (col. 27, lines 61-63). Moving a wheelchair and moving between command items of an electrical device address different technical problems and thus are non-analogous art. Thus, at least for this additional reason, Junker in view of Black does not teach or suggest these dependent claims.

Accordingly, reconsideration and withdrawal of the obviousness rejection of Claims 3, 4, 12, and 13 are requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: February 9, 2006



Eric S. Hyman, Reg. No. 30,139

12400 Wilshire Blvd.
Seventh Floor
Los Angeles, California 90025
(310) 207-3800

CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on January 12, 2006.



Amber D. Saunders

February 9, 2006